

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION – BAY CITY

IN RE:

BRITTANY HYDER

CASE NO. 20-21225-DOB

CHAPTER 13

HONORABLE DANIEL S. OPPERMAN

DEBTOR.

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LEO FOLEY, JR. (P76060)
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**SANTANDER CONSUMER USA INC.'S RESPONSE TO DEBTOR'S MOTION TO
COMPEL RETURN OF VEHICLE AND REQUESTS FOR COSTS, SANCTIONS AND
ATTORNEY FEES FOR WILLFUL VIOLATION OF THE AUTOMATIC STAY**

Santander Consumer USA Inc. ("Creditor"), in response to Debtor's Motion to Compel Return of Vehicle and Requests for Costs, Sanctions and Attorney Fees for Willful Violation of the Automatic Stay, states as follows:

1. Paragraph 1, calls for a legal conclusion to which no response is required.
2. As to Paragraph 2, the Creditor admits.
3. As to Paragraph 3, the Creditor admits that the vehicle was repossessed on July 26, 2020.

4. As to Paragraph 4, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

5. As to Paragraph 5, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs. The Creditor states further that releases were sent for the vehicle to its agent on August 7, 2020.

6. As to Paragraph 6, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

7. As to Paragraph 7, the Creditor admits.

8. As to Paragraph 8, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

9. As to Paragraph 9, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

10. As to Paragraph 10, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

11. As to Paragraph 11, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs. The Creditor states further that, upon information and belief the Debtor showed up to the Saginaw location even though the vehicle was being held in Grayling and even though the Debtor scheduled her appointment to pick the vehicle up at the Grayling location.

12. As to Paragraph 12, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

13. As to Paragraph 13, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

14. As to Paragraph 14, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

15. As to Paragraph 15, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs. The Creditor states further that since August 7, 2020, the vehicle has been available for pickup by the Debtor in Grayling but she has not made an appointment to do so. Debtor's counsel requested that the vehicle be dropped off at the Debtor's residence in West Branch. However, upon information and belief, the Creditor's agent will not deliver the vehicle to the Debtor both because of COVID-19 and because of threats made by the Debtor to the agent.

**GROUND TO HOLD SANTANDER CONSUMER USA RESPONSIBLE FOR
FEES, COSTS AND SANCTIONS**

16. As to Paragraph 16, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

17. Paragraph 17 calls for a legal conclusion to which no response is required.

18. As to Paragraph 18, the Creditor states that 11 U.S.C. § 362 speaks for itself.

19. Paragraph 19 calls for a legal conclusion to which no response is required. To the extent that a response is required, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

20. Paragraph 20 calls for a legal conclusion to which no response is required. To the extent that a response is required, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

21. As to Paragraph 21, the Creditor denies.

22. As to Paragraph 22, the Creditor denies.

REQUEST FOR CONCURRENCE

23. As to Paragraph 23, the Creditor neither admits nor denies for lack of knowledge and thereby leaves the Debtor to her proofs.

In conclusion, the Creditor prays that the court deny Debtor's motion.

O'REILLY RANCILIO P.C.

/s/ Craig S. Schoenherr, Sr.

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